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In re Application of
YAZAKI et al.
Serial No.: 10/586,673
PCT No.: PCT/JP05/00222
Int. Filing Date: 12 January 2005
Priority Date: 23 January 2004
Atty. Docket No.: 4776-0103PUS1
For: WHEEL CONVEYOR

DECISION

This application is before the PCT Legal Office for consideration of matters arising under 35 U.S.C. 371.

On 20 July 2006, within the thirty month deadline for filing a national stage application, applicant filed a transmittal requesting entry into national stage under 35 U.S.C. 371 along with the basic national filing fee, an executed declaration/power of attorney and an English translation of the international application, meeting the requirements under 35 U.S.C. 371(c).

On 18 June 2008, a Notification of Missing Requirements (Form PCT/DO/EO/905) was issued indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) was required. The Notification indicated that an error was noted in the declaration as the United States Application Number was not filled in. Clarification of the error was requested

A response to the Form 905 was filed on 18 August 2008 indicating that "the date '06/30/06' was inadvertently included on the Declaration filed on July 20, 2006....a minor error". On 17 September 2008, applicant filed a newly executed declaration along with the \$130 surcharge for filing the declaration after the thirty month period.

On 26 September 2008, a Notification of Acceptance was mailed to applicant indicating that applicant had fulfilled all the requirements of 35 U.S.C. 371(c)(2) and indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 17 September 2008.

A review of the application file reveals that as required by 35 U.S.C. 371(c)(4), a declaration, in compliance with 37 CFR 1.497(a) and (b) was submitted on 20 July 2006. In light of the above, the Notification of Acceptance (Form PCT/DO/EO/903) issued on 26 September 2008 is hereby **VACATED**. The \$130 surcharge for filing the declaration after the thirty month period is unnecessary and refunded.

The application will be forwarded to the United States Designated/Elected Office for further processing in accord with this decision, including issuance of a Notification of Acceptance and filing receipt. The 35 U.S.C. 371(c)(1), (c)(2) (c)(4) and (c)(5) date of date is **20 July 2006**.

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